

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #4	CCRB Case #: 201802724	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 03/25/2018 9:49 PM	Location of Incident: Front of § 87(2)(b)	Precinct: 83	18 Mo. SOL 9/25/2019	EO SOL 9/25/2019	
Date/Time CV Reported Tue, 03/27/2018 11:18 AM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Mon, 04/09/2018 11:07 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ryan Kelly	20882	958747	083 PCT
2. SGT William Mansour	04183	953046	083 PCT
3. POM John Restaino	27003	902270	083 PCT
4. POM Jeffrey Chin	16758	944434	083 PCT
5. POM Christophe Emmart	13299	960496	083 PCT
6. POM Alexander Budd	20817	958342	083 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Coleman	29737	953765	083 PCT
2. POM Jeffrey Chin	03412	960366	083 PCT
3. POM Timothy Deck	19638	958482	083 PCT
4. POM Alexander Leon	16065	949885	083 PCT
5. POF Savanna Domenech	03919	960470	083 PCT
6. POM Gerson Abellard	14412	960117	083 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT William Mansour	Abuse: In § 87(2)(b) in Brooklyn, Sergeant William Mansour searched the vehicle in which § 87(2)(b) was an occupant.	
B.POM Christophe Emmart	Abuse: In § 87(2)(b) in Brooklyn, Police Officer Christopher Emmart searched the vehicle in which § 87(2)(b) was an occupant.	
C.POM John Restaino	Abuse: In § 87(2)(b) in Brooklyn, Police Officer John Restaino searched the vehicle in which Ramel § 87(2)(b) was an occupant.	

Officer(s)	Allegation	Investigator Recommendation
D.POM Alexander Budd	Abuse: In § 87(2)(b) in Brooklyn, Police Officer Alexander Budd searched the vehicle in which § 87(2)(b) was an occupant.	
E.POM Ryan Kelly	Force: In § 87(2)(b) in Brooklyn, Police Officer Ryan Kelly used physical force against § 87(2)(b)	
F.POM Jeffrey Chin	Abuse: In § 87(2)(b) in Brooklyn, Police Officer Jeffrey Chin threatened to arrest § 87(2)(b)	
G.POM John Restaino	Abuse: In § 87(2)(b) in Brooklyn, Police Officer John Restaino threatened to damage an individual's property.	
H.SGT William Mansour	Abuse: In § 87(2)(b) in Brooklyn, Sergeant William Mansour seized § 87(2)(b)'s property.	
I.POM Ryan Kelly	Abuse: At the 83rd Precinct stationhouse, Police Officer Ryan Kelly searched the vehicle in which § 87(2)(b) was an occupant.	
§ 87(2)(b)	§ 87(4-b), § 87(2)(g)	

Case Summary

On March 27, 2018, § 87(2)(b) filed this complaint with IAB via email. The complaint was received at the CCRB on April 9, 2018.

On March 25, 2018, at approximately 9:49 p.m., in the vicinity of § 87(2)(b) in Brooklyn, Sergeant William Mansour, Police Officer Christopher Emmart, Police Officer John Restaino, Police Officer Alexander Budd, Police Officer Ryan Kelly, Police Officer Jeffrey Chin, and Police Officer Thomas Coleman, all of the 83rd Precinct, responded to a 911 call regarding firearms.

Sgt. Mansour and PO Emmart searched the vehicle in which § 87(2)(b) was an occupant (**Allegations A and B: Abuse of Authority, § 87(2)(g)**), and PO Restaino and PO Budd searched the vehicle in which § 87(2)(b) was an occupant (**Allegations C and D: Abuse of Authority, § 87(2)(g)**). PO Kelly used physical force against § 87(2)(b) (Allegation E: Force, § 87(2)(g)). PO Chin threatened to arrest § 87(2)(b) (Allegation F: Abuse of Authority, § 87(2)(g)). PO Restaino threatened to damage an individual's property (Allegation G: Abuse of Authority, § 87(2)(g)). Sgt. Mansour seized § 87(2)(b)'s property (Allegation H: Abuse of Authority, § 87(2)(g)).

At the 83rd Precinct stationhouse, PO Kelly searched the vehicle in which § 87(2)(b) was an occupant (**Allegation I: Abuse of Authority, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)
§ 87(2)(b)

§ 87(2)(b) The incident did not result in any other arrests or summonses.

§ 87(2)(b) provided four videos she took on her cell phone during the incident, which are discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Sergeant William Mansour searched the vehicle in which § 87(2)(b) was an occupant.
Allegation (B) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Police Officer Christopher Emmart searched the vehicle in which § 87(2)(b) was an occupant.
Allegation (C) In front of § 87(2)(b) in Brooklyn, Police Officer John Restaino searched the vehicle in which § 87(2)(b) was an occupant.
Allegation (D) In front of § 87(2)(b) in Brooklyn, Police Officer Alexander Budd searched the vehicle in which § 87(2)(b) was an occupant.

An attorney was consulted in this case.

It is undisputed that officers searched § 87(2)(b)'s vehicle. § 87(2)(g)

According to § 87(2)(b) (BR 01), prior to the officers' arrival, § 87(2)(b) and his girlfriend, § 87(2)(b) were sitting in his blue Lexus SC430 two-door drop top deciding where they were going to eat. § 87(2)(b) did not have marijuana inside his vehicle. § 87(2)(b) and § 87(2)(b) did not smoke marijuana inside the vehicle, had not smoked earlier in the day, and there was no odor of marijuana coming from the vehicle.

§ 87(2)(b) and § 87(2)(b) then got into a physical altercation with their neighbors, § 87(2)(b) in

front of § 87(2)(b), § 87(2)(b) tried to pull § 87(2)(b) out of the driver's seat through the window, but was unable to do so. § 87(2)(b) did not have a gun and was not injured.

§ 87(2)(b) and § 87(2)(b) drove away, but approximately seven minutes later returned in his vehicle with § 87(2)(b)'s brother, § 87(2)(b) drove his own car, a black four-door Infiniti Q50, back to the location with his friend, § 87(2)(b) and § 87(2)(b) pit bull. § 87(2)(b) parked directly in front of § 87(2)(b) and § 87(2)(b) parked on the opposite side of the road near a funeral home.

When § 87(2)(b) returned, he exited his vehicle to stand on the curb in front of his home. § 87(2)(b) (s mother), § 87(2)(b) (s grandfather), and § 87(2)(b) (s boyfriend), were standing on the sidewalk. PO Kelly and PO Coleman were speaking with § 87(2)(b) when § 87(2)(b) arrived. § 87(2)(b) learned that § 87(2)(b) called the police because she witnessed the fight with the neighbors from her bedroom window.

As § 87(2)(b) was speaking with PO Coleman and PO Kelly, approximately ten additional officers arrived. § 87(2)(b) saw two officers, identified as PO Restaino and PO Budd search § 87(2)(b) vehicle, looking inside the glove box and trunk. § 87(2)(b) heard an officer tell § 87(2)(b) that they received a call about a gun in a car that matched the description of § 87(2)(b) vehicle.

§ 87(2)(b) then saw two officers, Sgt. Mansour and PO Emmart, search his vehicle. The officers opened his glove box and middle console, looked in the trunk, and moved his driver's seat.

Sgt. Mansour asked § 87(2)(b) if he was the owner of the car, which § 87(2)(b) confirmed. PO Kelly then arrested § 87(2)(b) but § 87(2)(b) did not know why he was being arrested until it was later explained to him that a "clip of weed" was recovered from the ash tray in his vehicle.

§ 87(2)(b) and § 87(2)(b) (BR 02) were unavailable to the investigation. § 87(2)(b)'s testimony (BR 03) was consistent with that of § 87(2)(b) (BR 04) said that she called 911 because she saw her neighbors and one of her neighbor's boyfriend trying to assault § 87(2)(b) and § 87(2)(b). When officers arrived, they searched the inside of § 87(2)(b)'s car, though § 87(2)(b) did not see officers search § 87(2)(b) car. § 87(2)(b) believed the neighbors called 911 to falsely report that there were firearms in vehicles.

§ 87(2)(b) (BR 05) was generally consistent with § 87(2)(b).

The EVENT (BR 13) lists a female caller reporting a group of three males and one female with guns inside of a blue Mercedes "drop top" parked in front of § 87(2)(b) and an all-black Infiniti parked across the street in front of a funeral home. All three males were described as wearing hoodies.

The audio of the 911 CD (BR 33-34) revealed the caller to be § 87(2)(b) who reiterated that she actually saw the firearms being placed into a blue Mercedes and black Infiniti. § 87(2)(b) Glenn then tells the 911 operator that police are on scene.

The Snag-It clip below (BR 06) of the video § 87(2)(b) took of the incident shows § 87(2)(b) approach his blue Lexus saying, "Get the fuck out of my car. Don't touch my car," repeatedly. § 87(2)(b) walks up to Sgt. Mansour, who is standing in front of § 87(2)(b)'s vehicle, and says, "This is your car, right? All right. Cool. 92 him, please" (<<00:04 – 00:12>>). The footage then becomes blurry. § 87(2)(b) says, "What the fuck? What I do?" (<<00:15>>).



2018-07-11_11-26-52.mp4

After § 87(2)(b) is arrested, a second video (BR 07) shows PO Emmart standing on the driver's side of § 87(2)(b)'s blue Lexus and Sgt. Mansour standing on the passenger's side with their flashlights on (<<00:00 – 00:09>>). Both doors are open. PO Emmart breaches the plane of the vehicle (<<00:23>>) and searches the driver's side area, including behind the driver's seat. The video does not definitively show Sgt. Mansour breach the plane of the vehicle.



2018-07-11_11-28-25.mp4

The clip below (BR 08) shows PO Budd and PO Restaino on the driver's and passenger's side of § 87(2)(b) black vehicle, respectively. The passenger's side door is open. The video does not definitively show PO Budd or PO Restaino breach the plane of § 87(2)(b) vehicle. A male voice says, "Get out of my car" (<<00:02>>) and § 87(2)(b) says, "They started searching the car" (<<00:09>>).



2018-07-11_12-02-15.mp4

According to Sgt. Mansour (BR 09), when he arrived on scene, he identified § 87(2)(b)'s vehicle as the vehicle that was described in the job because it was blue and was parked in front of the incident location. The windows of the vehicle were down, and Sgt. Mansour saw a marijuana cigarette, described as a "white joint" with burn marks at the end of it inside the car. Because Sgt. Mansour saw the marijuana cigarette, smelled an odor of marijuana, and § 87(2)(b)'s vehicle matched the description of the vehicle provided in the job, Sgt. Mansour "looked around" § 87(2)(b)'s vehicle. Sgt. Mansour acknowledged that his head breached the plane of the vehicle when he "looked around," but he did not remember if he opened any compartments. PO Emmart assisted Sgt. Mansour in searching § 87(2)(b)'s vehicle. A firearm was not recovered from the vehicle.

After § 87(2)(b) was arrested, Sgt. Mansour spoke to a female civilian. Sgt. Mansour thought the female was the 911 caller, but he could not remember who the woman was, and he did not obtain any contact or pedigree information for her. Sgt. Mansour could not remember the details of this conversation.

The investigation presented Sgt. Mansour with the EVENT (BR 13), which lists § 87(2)(b)'s vehicle as a Mercedes, not a Lexus, as depicted in the video. When asked about the discrepancy, Sgt. Mansour repeated that he identified the car as the vehicle described in the call because it was blue and parked directly in front of the specified location.

PO Emmart (BR 10) provided a consistent testimony with that of Sgt. Mansour and explained that he searched the vehicle because he was directed to by Sgt. Mansour.

Both officers (BR 09-10) stated that the videos were consistent with their recollection of the incident.

Sgt. Mansour and PO Emmart's testimonies were consistent with the Marijuana Supporting Deposition Sheet, which notes that one marijuana cigarette was found on the driver's seat of § 87(2)(b)'s vehicle (BR 15).

§ 87(2)(g)

Allegation (F) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Police Officer Jeffrey Chin threatened to arrest § 87(2)(b)

According to § 87(2)(b) (BR 03), after § 87(2)(b) was arrested, Sgt. Mansour and PO Emmart continued to search § 87(2)(b)'s car. § 87(2)(b) stood approximately three feet away from Sgt. Mansour and recorded the officers searching § 87(2)(b)'s vehicle.

PO Chin told § 87(2)(b) "You could be arrested. Back away from the sergeant." According to § 87(2)(b) PO Chin did not give § 87(2)(b) any commands before telling her she could be arrested.

The video below (BR 17) shows § 87(2)(b) recording from the sidewalk and approaching § 87(2)(b)'s vehicle. The passenger's side door is open, and Sgt. Mansour is standing between the open door and the body of the car. § 87(2)(b) is standing on the other side of the open door so that the door is between her and Sgt. Mansour. Sgt. Mansour asks § 87(2)(b) to back up, as she is "in the zone of safety," several times. PO Chin is heard saying "Stop walking behind the sergeant" two times before yelling, "Stop walking behind the sergeant" (<<00:00 – 00:16>>). PO Chin says, "You're going to be placed in handcuffs" (<<00:18 – 00:20>>). § 87(2)(b) then walks away.



201802724_20180801_1150_DM.mp4

According to PO Chin (BR 18), § 87(2)(b) continuously walked between the officers on the sidewalk. PO Chin told § 87(2)(b) to move back because the street was dark and he could not see what she was doing. Because the job involved firearms, PO Chin wanted § 87(2)(b) to stand away from the officers for safety reasons, but § 87(2)(b) only complied briefly with PO Chin's commands to move back before moving closer again. When PO Chin told § 87(2)(b) she could be arrested if she did not step back from the officers, § 87(2)(b) then complied. § 87(2)(b) could have been arrested for obstruction of governmental administration (OGA).

A person is guilty of OGA when he intentionally obstructs, impairs or perverts the administration of law or other governmental function by means of intimidation, physical force or interference, or any independently unlawful act. Penal Law 195.05 (BR 19).

Evidence that a person intruded into police activity to frustrate its objectives qualifies as violating the OGA statute. In re Davan L. 91 N.Y.2d 88 (1997) (BR 36).

§ 87(2)(g)

Allegation (G) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Police Officer John Restaino threatened to damage an individual's property.

§ 87(2)(b) (BR 03) testified that § 87(2)(b) and his friend, whom she only knew as "§ 87(2)(b)", drove to § 87(2)(b) in § 87(2)(b) vehicle. "§ 87(2)(b)" brought his pit bull with

him. “§ 87(2)(b)’s” pit bull was vicious and had bit people before this incident. After officers searched § 87(2)(b) vehicle, PO Restaino pointed an “infrared light” at “§ 87(2)(b)’s” dog, which was approximately seven to eight feet from the officers, and told “§ 87(2)(b)” to put the dog away.

Neither § 87(2)(b) nor § 87(2)(b) had any contact information for “§ 87(2)(b),” as he was § 87(2)(b) friend. Because § 87(2)(b) was unavailable to the investigation, the investigation was unable to identify and contact “§ 87(2)(b)” (BR 02).

The video below (BR 20) begins with PO Restaino pointing a taser at § 87(2)(b)’s dog. The dog is not growling or barking, and is approximately six to eight feet away from PO Restaino and the other officers (<<00:00 – 00:03>>). Officers tell “§ 87(2)(b)” to back the dog up multiple times. “§ 87(2)(b)” says, “Y’all back up. Y’all bothering the dog” (<<00:003 – 00:11>>). “§ 87(2)(b)” then walks down the sidewalk with the dog away from the officers (<<00:14>>).



201802724_20180711_1106_DM.mp4

PO Restaino (BR 11) testified that he pointed the taser at the dog because “§ 87(2)(b)” had ignored several commands from the officers to move the dog back, the civilians on scene were “hying” the dog up by yelling, and the dog was vicious in that it growled at the officers.

§ 87(2)(g)

Allegation (H) Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Sergeant William Mansour seized § 87(2)(b)’s property.

Allegation (I) Abuse of Authority: At the 83rd Precinct stationhouse, Police Officer Ryan Kelly searched the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that PO Emmart drove § 87(2)(b)’s vehicle back to the 83rd Precinct stationhouse at Sgt. Mansour’s direction and that PO Kelly searched § 87(2)(b)’s vehicle at the stationhouse.

§ 87(2)(b) (BR 01) saw from inside the police vehicle that an officer drove his vehicle back to the stationhouse. After § 87(2)(b) was released with a Desk Appearance Ticket, he noticed that a Lexus mat in the trunk had been lifted, which damaged the snaps that kept the mat in place. As neither § 87(2)(b) nor any other civilian saw PO Kelly damage § 87(2)(b)’s property, an allegation of property damage has not been pleaded.

According to Sgt. Mansour (BR 09), he instructed an officer, determined by the investigation to be PO Emmart, to drive § 87(2)(b)’s vehicle back to the stationhouse because the scene was “hostile” as civilians were yelling.

PO Emmart (BR 10) was consistent with Sgt. Mansour and added that the search at the scene was insufficient because of the hostile crowd, making the stationhouse a safer place to conduct a thorough search.

PO Kelly (BR 29) explained that he searched § 87(2)(b)’s vehicle at the stationhouse, as per protocol of a vehicle being in police custody, to ensure there was no further contraband in § 87(2)(b)’s vehicle. PO Kelly looked inside the interior compartments of the vehicle, and “may” have opened unlocked compartments. No contraband was recovered during the search and PO Kelly did not damage any property during the search.

Vehicles and/or property coming into police custody must be invoiced and properly classified as arrest evidence, investigatory evidence, for forfeiture proceedings, or to determine true owner. Patrol Guide Procedure 218-19 (BR 30).

When an automobile comes into police custody, police officers must search the interior of the vehicle thoroughly, including compartments, consoles and trunks. Patrol Guide Procedure 218-13 (BR 14).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation (J) § 87(2)(b)

§ 87(4-b)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 21).
- This is the first complaint to which § 87(2)(b) has been a party (BR 22).
- § 87(2)(b)
- § 87(2)(b)
- Sgt. William Mansour has been a member of service for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g)
- PO Christopher Emmart has been a member of service for two years and this is the first CCRB complaint to which he has been a party.
- PO John Restaino has been a member of service for 26 years and has been a subject in 16 CCRB complaints and 42 allegations, of which one was substantiated.
 - 200309692 involved a substantiated allegation of physical force against PO Restaino. The board recommended charges and the final NYPD disposition was not guilty.
 - § 87(2)(g)
- PO Alexander Budd has been a member of service for two years and this is the first CCRB complaint to which he has been a party.

- PO Ryan Kelly has been a member of service for three years and has been a subject in two prior CCRB complaints and two allegations, none of which was substantiated. § 87(2)(b)
- PO Jeffrey Chin has been a member of service for ten years and has been a subject in four CCRB complaints and six allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- § 87(2)(b), § 87(2)(c) (impair contract awards or CBAs)
- As of April 24, 2018, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 27).

Squad No.: _____

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date